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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/302,407	04/30/1999	FRANK W. FABIAN	57472/3	6840

7590 10/27/2003

BLAKE CASSELS & GRAYDON  
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TORONTO, M5L1A9  
CANADA

EXAMINER

HARVEY, DIONNE

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 10/27/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/302,407

Applicant(s)

Fabian

Examiner

Dionne Harvey

Art Unit

2643



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) ~~1-7 and 28-41~~ 1-47 is/are allowed.
- 6) ☒ Claim(s) ~~8-22, 24, 25, 27, and 42-50~~ 48-50 is/are rejected.
- 7) ☒ Claim(s) ~~23 and 26~~ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities: The specification fails to clearly describe the “intermediate member” of claim 8, which appears to be shown in figure 3. Clear illustration of said “intermediate member” and pertinent disclosure is requested. Appropriate correction is required.

### ***Claim Rejections - 35 U.S.C. § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 recites the limitation “distal end member” in line 7. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 U.S.C. § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 48-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto (US 5,909,015).

Regarding claim 48, Yamamoto teaches a loudspeaker comprising: a magnetic flux path assembly and a co-operable diaphragm, said diaphragm having a voice coil(27) mounted thereto; said magnetic flux path assembly having a pole piece(39), and an opposed piece (35), said pole piece(39) and opposed piece defining a gap therebetween; said voice coil being mounted for reciprocal movement in said gap; said pole piece (39) having a relief therein for conducting displaced air, said relief having an open side facing the voice coil; and said opposed piece (35) having a relief (43-1) formed therein for conducting displaced air, said relief of said opposed piece having an open side facing the voice coil.

Regarding claim 49, Yamamoto teaches that the diaphragm is operable to urge air to be displaced in a opposite direction past the voice coil in said respective reliefs of said pole piece (39) and said opposed piece (35).

Regarding claim 50, Yamamoto inherently teaches that the diaphragm is operable to cause air to be displaced is said reliefs adjacent to both the inside and outside of the voice coil.

***Allowable Subject Matter***

2. Claims 1-47. ~~Claims 23 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.~~

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***Response to Arguments***

Applicant's arguments filed 7/29/03 have been fully considered but they are not persuasive.

**Regarding Claim 8.**

The Applicant has failed to provide sufficient support for claimed limitation "intermediate member." A clear illustration of said "intermediate member" is not provided in the figures or disclosed in the written portion of the applicant's specification.

***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statements for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne Harvey whose telephone number is (703) 305-1111. The examiner can normally be reached on Monday through Friday from 8:30am to 6:00pm.

**Any responses to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, DC 20231

**or faxed to:**

(703) 308-6306, for formal communications for entry

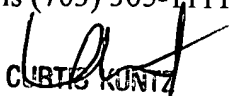
**Or:**

(703) 308-6296, for informal or draft communications, please label "PROPOSED" or "DRAFT".

Hand delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor(Receptionist)

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached at (703) 305-4708.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne Harvey whose telephone number is (703) 305-1111.

  
CURTIS KUNTZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2000

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D.H.

October 23, 2003